

MEMORANDUM

FEBRUARY 11, 1993

TO: BOSTON REVELOPMENT AUTHORITY AND
PAUL L. BARRETT, DIRECTOR

FROM: BRIAN DELOREY, ASSISTANT DIRECTOR FOR
ECONOMIC DEVELOPMENT
PAUL REAVIS, ASSISTANT DIRECTOR FOR
ENGINEERING AND DESIGN SERVICES
VICTOR KAREN, DEPUTY DIRECTOR FOR
ECONOMIC DEVELOPMENT
EDWARD O'DONNELL, DEPUTY DIRECTOR FOR
MANAGEMENT AND OPERATIONS

SUBJECT: PIER 4, CHARLESTOWN NAVY YARD;
FUNDING AGREEMENT WITH DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT, COMMONWEALTH OF MASSACHUSETTS, TO REPROGRAM
UNEXPENDED FUNDS FOR USE IN CONSTRUCTING CAPITAL
IMPROVEMENTS AT THE COURAGEOUS SAILING CENTER

SUMMARY: This action grants authorization to the Director to execute a new agreement with the Commonwealth of Massachusetts' Department of Enviromental Management (DEM) in order to make available unexpended funds for use in constructing capital improvements at the non-profit Courageous Sailing Center. The reprogramming of unexpended funds by DEM will be met with a matching grant from the City of Boston's Office of Capital Planning (OCP), with a total of approximately \$298,000 becoming available for capital improvements at the Sailing Center.

Established in 1985, the Courageous Sailing Center (CSC) has become one of the most successful non-profit sailing centers in the nation. Led by the late Harry McDonough and headquartered at Pier 4 in the Charlestown Navy Yard, CSC has provided thousands of young people from virtually every neighborhood in Boston with the elements of sailing and seamanship, as well as valuable lessons in teamwork and cooperation. In the early years of CSC's existence, financial assistance originated from a variety of private and corporate sponsors, as well as from BRA operating funds. Additionally, the BRA provided assistance by subsidizing utility costs related to the operations upon Pier 4 and granting office space within the Navy Yard to CSC staff.

The City of Boston's Department of Parks and Recreation Departments is currently in the process of assisting in the necessary support and fundraising for CSC, assuming its rightful place as the City's primary vehicle of managing such leisure time programs. As a reflection of Parks and Recreation's commitment to CSC, the department has been engaged in a series of ongoing fundraising and maintenance activities in support of the Center, as well as providing direct financial support to annual operations. In August of 1992, the BRA and Parks and Recreation Department executed a ten year license agreement for the use, care and custody of Pier 4 as it

relates to the operations of CSC. The practical effects of that license agreement were to free the BRA of its ongoing financial responsibilities towards Pier 4, while still reserving our rights for use and enjoyment of the facilities as events may arise. Parks and Recreation, for its part, received the benefit of being able to formulate long range plans for CSC operations and fundraising needs, as well as making Pier 4 eligible for substantial improvements via the use of City Capital.

The proposed \$298,000 investment in the center speaks to both short and long term needs. Improved security and lighting systems will be an immediate priority, as will repairs to existing floats. Subsequent work will focus upon the architectural and engineering designs for major rehabilitation and expansion of the dockhouse facilities and a new finger float system. The proposed new agreement between the BRA and DEM represents a major step forward in not only making CSC a national model for recreation programs serving urban youth but also in assisting CSC to become economically self-sufficient. In addition, new sources of non-operating funds can be utilized in making long term improvements to Pier 4, while retaining the BRA's rights to utilize the property as events and needs dictate.

A copy of the newly proposed grant agreement with DEM is attached hereto. No BRA funds will be utilized or placed at risk during the planned improvements to Pier 4. The role of BRA personnel will be limited to oversight and management in securing repair bids and in working cooperatively with Parks and Recreation personnel over the course of these repairs. Although the agreement with DEM represents the standard format stipulated by the Commonwealth of Massachusetts, acknowledgement exists as to the limitation of the BRA's role and that without matching funds from the City of Boston, the Authority's role, financial and otherwise, becomes null and void.

An appropriate vote follows:

VOTED: That the Director be authorized to execute Agreement #9305 with the Commonwealth of Massachusetts' Department of Environmental Management (DEM) to provide for certain capital improvements to Pier 4 in the Charlestown Navy Yard. Funding shall come from DEM, with a similar grant to be received from the Office of Capital Planning (OCP). No BRA funds will be utilized.

DRAFT

This Standard Contract (hereinafter the "Contract") is entered into by and between the Commonwealth of Massachusetts (hereinafter the "Commonwealth"), through its department: Department of Environmental Management

with its principal place of business address located at: 100 Cambridge Street,
19th Floor, Boston, MA 02202 (hereinafter the "Department"), and the Boston
Redevelopment Authority a (check one,

☐ Massachusetts Corporation (Domestic)
☐ Non-Mass Corporation (Foreign)
☐ Non-U.S. Corporation (Alien)
☐ Professional Corporation
☐ Not-For-Profit Corporation
☐ Non-incorporated Association

☐ Limited Partnership
☐ Partnership
☐ Individual (Independent Contractor)
☐ Individual (Non-Independent Contractor)
☐ Non-State University (State Univ use ISA only)
☒ Municipality, County, City, Town, District, Commission

☐ Federal Agency
☐ Public Authority* (M.G.L. c.29 s.1
☐ Quasi-Public Agency*
☐ Trust
☐ Other (specify) _____
(*Follow 815 CMR 2.00)

with its principal place of business address located at: One City Hall Square, Boston, MA 02201

(hereinafter the "Contractor")

1. SCOPE OF SERVICES AND ADDITIONAL TERMS AND CONDITIONS. The Contractor agrees to perform the services outlined in ATTACHMENT A - SCOPE OF SERVICES AND ADDITIONAL TERMS AND CONDITIONS in accordance with the terms and conditions of this Contract. The Contractor represents that the Contractor is qualified to perform the services required under this Contract and shall obtain all requisite licenses and permits to perform these services. The Department and the Contractor shall specifically identify in ATTACHMENT A all "deliverables" including but not limited to services, programs, and goods to be produced, provided by the Contractor, or delivered to the Department pursuant to this Contract. The provisions contained below may be modified only as specifically provided in each section of this Contract.

2. PERIOD OF PERFORMANCE

(a) (Please check appropriate section):

(M.G.L. c.29 s.29A SERVICE CONTRACT.) In no event shall the Contractor be reimbursed for services rendered prior to the date that this Contract has been approved by the Secretary or authorized delegate of the Department on the appropriate form pursuant to the Executive Office for Administration and Finance Regulation 801 CMR 20.00. No payments shall be made to the Contractor prior to the date that the executed Contract or a certified copy thereof, including all relevant attachments, and the requisite approvals or signatures required by 801 CMR 20.00 have been filed with the Office of the Comptroller.

XX The period of performance for services under this Contract shall begin on or about January 15, 1995 and in no event shall services begin prior to the last execution date of the parties in section 26.

(b) The Contractor understands and agrees that the performance of services under this Contract shall terminate no later than June 30, 1995, unless a written amendment to renew or extend this Contract is executed by both parties and filed with the Office of the Comptroller prior to the termination date indicated in this paragraph, in accordance with all applicable regulations and procedures. The Contractor understands and agrees that the Contractor shall not be reimbursed for any services provided after the date of termination stated in this paragraph or prior to the approval of any renewal or extension of this Contract in accordance with the provisions of this paragraph.

3. MAXIMUM OBLIGATION-COMPENSATION. The Department's total maximum obligation under this Contract shall not exceed \$ 145,680.07 dollars. The Department shall compensate the Contractor for goods and services provided and payments shall be made in accordance with the rates and amounts specified in ATTACHMENT B - BUDGET AND APPROVED EXPENDITURES. Unless otherwise provided in ATTACHMENT A, the Contractor shall be permitted to vary among budget line items of the Contract ONLY upon the prior written approval of the Department. The Contractor shall only be reimbursed for travel expenses and meals as specifically indicated in ATTACHMENT B. Any applicable maximum number of hours per day, per week, per month or for the duration of this Contract shall be specifically identified in either ATTACHMENT A or B. The Contractor shall not be reimbursed for any work performed in addition to this maximum number of hours without prior written approval of the Department. The Department shall retain the right to disallow payment for any expenses claimed by the Contractor if there is no supporting documentation. If the Department determines that the Contractor received payments not authorized under this Contract, the Contractor shall reimburse the Department upon demand. The Contractor shall not be reimbursed for holidays, sick days or time other than that spent providing services pursuant to this Contract. The acceptance of the last payment for services upon completion of this Contract or upon termination without any written objections, shall in each instance operate as a release and discharge of the Commonwealth, the Department, its agents and employees from all claims, liability, responsibility or other obligations to this Contractor relating to the performance of the Contract.

4. METHOD OF PAYMENT. Unless otherwise provided in ATTACHMENT A, all payments to Contractor shall be made in accordance with the following:
(a) Payment Voucher System. Promptly after the last day of the payment period in which the services are performed (weekly or monthly), the Contractor shall submit corresponding Payment Vouchers (Form PV), or similar invoices, with supporting documentation to the Department to be reviewed during the payment period just ended. The Department shall have fifteen (15) days to review and approve the invoice. The Department shall return any unapproved invoice to the Contractor within fifteen (15) days of receipt, with a written explanation for the rejection of the invoice. The Contractor and Contractor shall indicate any additional requirements or modifications to the aforementioned procedures in ATTACHMENT A. The Contractor shall agree

8. OBLIGATION IN THE EVENT OF TERMINATION. Unless otherwise provided in ATTACHMENT A, if the Contractor is not in default of any of the terms of this Contract, the Department shall promptly pay the Contractor for all services performed and for all approved costs and uncancelable commitments reasonably incurred in performance of the Contract, as specifically identified in ATTACHMENT B, provided the Contractor submits completed invoices with supporting documentation covering such services no later than forty-five (45) days after the effective date of termination, but in no event later than August 15th for services performed or goods delivered in the preceding fiscal year (July 1 - June 30), and that the Contractor makes every reasonable effort to minimize any such costs incurred. The Contractor shall not be relieved of liability to the Department for any costs, injuries, penalties, damages or other charges sustained by the Department by virtue of any breach by the Contractor of this Contract. In addition to any other termination rights, the Department retains the right to pursue any and all available legal and equitable remedies and may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages to be paid by the Contractor is determined by the Department. If this Contract is terminated as a result of the Contractor's default or breach the Department may require the Contractor to pay the reasonable amount necessary to compensate a subsequent contractor to complete the delivery of the services that the Contractor had contracted to supply under this Contract, and any additional amounts that the Department reasonably determines are necessary to compensate for other direct and indirect costs resulting from the delays in the delivery of the services. The Contractor further covenants and agrees to pay all the Department's costs and expenses (including attorney's fees) reasonably incurred or paid by the Department or the Commonwealth in obtaining and enforcing any court order, settlement or judgment favorable to the Department for any obligation of the Contractor under this Contract.

9. RECORDKEEPING, INSPECTION OF RECORDS AND AUDITS. The Contractor shall maintain, and require its subcontractors to maintain books, records and other compilations of data, in such detail as shall properly substantiate claims for payment under this Contract, or as otherwise specified in ATTACHMENT A. The Contractor shall provide detailed fiscal and programmatic reports on the services or goods provided, and the expenditures made under this Contract in the format and in such detail as is specified in ATTACHMENT A. All such records and reports shall be kept for a period of six (6) years or for such longer period as is required in ATTACHMENT A. The computation of retention periods shall start on the first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. The Governor, the Secretary of the Executive Office for Administration and Finance, the Comptroller, the State Auditor, the Attorney General, the Department, the Department's Secretary, the federal grantor agency to the Department, or any of their duly authorized representatives or designees, shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records and other compilations of data of the Contractor which pertain to the provisions and requirements of this Contract. Such access shall include on-site audits, review, and copying of records. The Department shall make a good faith effort to coordinate multiple requests by the aforementioned agencies so as to reduce any hardship or undue burden on the Contractor. If the Contractor receives federal funds pursuant to this Contract the Contractor agrees to comply with all federal requirements including but not limited to federal audits. Not-for-Profit Corporations that receive federal funds from the Department must comply with the audit requirements outlined in the federal Office of Management and Budget OMB Circular A-133, as amended. If this is a M.G.L. c.29 s.29A service contract, the Department retains the right to conduct an audit after termination of this Contract and may recover any costs (including, but not limited to administrative overhead or fringe benefit rate) or payments disallowed as a result of an audit pursuant to this Contract.

10. CONFIDENTIALITY. The Contractor acknowledges that in performance of this Contract it may acquire or have access to "personal data" and become a "holder" of personal data as defined by M.G.L. c. 66A. The Contractor shall comply with all laws and regulations relating to confidentiality and privacy, including but not limited to any rules or regulations of the Department. The Contractor shall at all times recognize the Department's ownership of personal data and the exclusive right and jurisdiction of the Commonwealth and "data subjects" (as defined in Chapter 66A) to control the use of personal data. The Contractor shall immediately notify the Department both orally and in writing if any personal data in the Contractor's possession is subpoenaed, improperly used, copied or removed by anyone except an authorized representative of the Department. The Contractor shall cooperate with the Department to enjoin or prevent misuse, regain possession, and otherwise protect the Commonwealth's rights in such personal data and to ensure the data subject's privacy. The Contractor shall allow the Department access to any personal data held by the Contractor. All personal data held by the Contractor shall be delivered to the Department within fourteen (14) calendar days after termination of this Contract. The Contractor agrees to take reasonable steps to insure the physical security of such data under its control, including any additional conditions specified in ATTACHMENT A. The Contractor agrees that it will inform each of its employees having any involvement with such personal data or other confidential information of the laws and regulations relating to confidentiality. The Department shall have access at all times to any data maintained pursuant to the Contract without the consent of the data subject. The Contractor shall use personal data, and material derived from such data, only as necessary for the performance of this Contract.

11. POLITICAL ACTIVITY PROHIBITED, ANTI-BOYCOTT WARRANTY. The Contractor may not use any Contract funds and none of the services to be provided by the Contractor may be used for any partisan political activity or to further the election or defeat of any candidate for public office. During the term of this Contract, neither the Contractor nor any controlled group, within the meaning of section 993 (a)(3) of the Internal Revenue Code, as amended, shall participate in or cooperate with any international boycott, as defined in Section 999 (b) (3) and (4) of the Internal Revenue Code of 1954, as amended; nor shall either engage in conduct declared to be unlawful by M.G.L. c.151E s.2.

12. INTELLECTUAL PROPERTY RIGHTS, PUBLICITY, PUBLICATION, REPRODUCTION AND USE OF MATERIAL. Unless otherwise provided in ATTACHMENT A, the following provisions shall apply to this section: Upon termination of this Contract, the originals of all finished and unfinished documents, data, studies, reports or other deliverables prepared by the Contractor pursuant to this Contract shall become the property of the Department. The Contractor shall submit all deliverables and return all Department or Commonwealth-owned data, materials, documents to the Department as specified in ATTACHMENT A or within seven (7) calendar days after the Department's written request. The Commonwealth shall have the and own the copyright in any and all copyrightable deliverables or other final products specified to be delivered as an element of performance in this Contract. The Department shall be given reasonable access to all finished and unfinished deliverables. The Contractor shall at all times obtain the prior written approval of the Department before the Contractor, any of its officers, agents, employees or subcontractors, either during or after termination of the Contract makes any statement to the press or issues any material for publication, derived from the deliverables received under this Contract. The Commonwealth shall have a royalty-free non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the deliverables whether published or unpublished. The Contractor shall use reasonable means to inform the public that the Department provides financial support for its

20. NOTICE. Unless otherwise specified in ATTACHMENT A, any notice hereunder shall be in writing and shall be deemed delivered and received when given in person to either party, or when received by fax, express mail, certified mail return receipt requested, registered mail, postage prepaid or delivered by any other appropriate method evidencing actual receipt by the party to whom the notice was delivered. The notice shall be addressed to the person and addresses indicated in the Contract or as otherwise specified in ATTACHMENT A. A copy of said notice, referencing the encumbrance document identification number of this Contract shall also be filed with the Office of the Comptroller, Procurement Division, One Ashburton Place, 9th Floor, Boston, MA 02108, to be attached to the original Contract on file in that office.

21. INSURANCE. Unless otherwise provided by law, the Contractor shall provide and maintain at least the minimum statutorily required insurance to the Contractor and its employees, including but not limited to, worker's compensation and unemployment compensation insurance, including but not limited to M.G.L. c. 151A, c. 151B, c. 152, or applicable laws in any state where work is performed under this Contract. The Contractor shall provide adequate proof of the fulfillment of any of the requirements of this section to the Department within seven (7) days of its receipt of a written request by the Department. The Contractor understands and agrees that violations of statutory insurance provisions may subject the Contractor to immediate termination of this Contract and debarment from bidding on and receiving state and municipal contracts in the future. ATTACHMENT A shall specify any additional insurance requirements during the term of this Contract.

22. WAIVERS. The provisions contained in this Contract may be modified only as specifically provided in each section of this Contract. Waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment pursuant to the provisions of section 23, "AMENDMENTS", and are subject to any applicable laws, regulations and procedures. All waivers for M.G.L. c.29 s.29A service contracts must be made in accordance with 801 CMR 20.00 and require approval of the Executive Office for Administration and Finance. All waivers for 815 CMR 2.00 Contracts require approval by the Office of the Comptroller. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. No waiver by either party of any default in breach shall constitute a waiver of any subsequent default or breach. All waivers and approvals must be filed with the Office of the Comptroller, either with the initial filing of this Contract or thereafter by referencing the encumbrance document identification number of this Contract, prior to the effective date of the waiver.

23. AMENDMENTS. No amendment to this Contract shall be effective unless it is executed by authorized representatives of both parties in accordance with all applicable laws, regulations and procedures and filed at the Office of the Comptroller, referencing the encumbrance document identification number of this Contract, prior to the effective date of the amendment. Amendments to M.G.L. c.29 s.29A service contracts and all required authorizations must be made in accordance with the provisions of 801 CMR 20.00. Amendments to 815 CMR 2.00 must be made in accordance with 815 CMR 2.00.

24. M.G.L. c.29 s.29A SERVICE CONTRACTS-SECRETARIAT APPROVAL. Services may not begin, nor will an amendment, extension, or waiver be effective, prior to the date that this Contract, amendment, extension or waiver receives prior written approval of the secretary or his/her delegate having charge of the Department. Such approval shall also certify that the Contract, amendment, extension or waiver complies with M.G.L. c.29 s.29A, the regulations promulgated pursuant thereto, and all other requirements of law. No payments will be made until the date that the executed Contract, amendment, extension or waiver, or a certified copy thereof, including all relevant attachments, and the requisite approvals or signatures pursuant to this section have been filed with the Office of the Comptroller.

25. SEVERABILITY, HEADINGS AND INTERPRETATION, INTEGRATION. If any provision of this Contract is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations under that provision. The remainder of the Contract shall be enforced to the fullest extent permitted by law. The headings used herein are for reference and convenience only and shall not be a factor in the interpretation of this Contract. The parties understand and agree that this Contract, including ATTACHMENT A, ATTACHMENT B and ATTACHMENT C and any additional attachments referenced in ATTACHMENT A, shall supersede all other verbal and written agreements and negotiations by the parties relating to the performance of services under this Contract.

26. EXECUTION AND CERTIFICATION. IN WITNESS WHEREOF, the Department and the Contractor have caused this Contract to be executed by their respective authorized officers, as of the last date set forth below. AND THE CONTRACTOR CERTIFIES, UNDER THE PAINS AND PENALTIES OF PERJURY, THAT THE CONTRACTOR IS IN COMPLIANCE WITH EACH OF THE FOLLOWING:

- a. **TAXES.** Pursuant to M.G.L. c.62C s.49A, the Contractor has filed all state tax returns, paid all taxes and complied with all laws of the Commonwealth relating to taxes.
- b. **EMPLOYMENT SECURITY CONTRIBUTIONS (Unemployment Compensation).** Pursuant to M.G.L. c.151A s.19A, the Contractor has complied with all laws of the Commonwealth relating to contributions and payments in lieu of contributions to the Employment Security System.
- c. **CLOSURE OF PERSONS WITH FINANCIAL INTEREST.** (M.G.L. c.29 s.29A Contracts only) Pursuant to the provisions of M.G.L. c.7A s.6, that the names of all persons having a financial interest in this Contract appear below as follows: (This shall not include any person whose financial interest consists of the holding of one percent (1%) or less of the capital stock of a corporation contracting to provide the services herein).

NAMES

ADDRESSES

DRAFT

INSTRUCTIONS FOR DEPARTMENT AND CONTRACTOR: Please provide: (1) a detailed description of all the types of services that will be provided pursuant to this Contract, including any dates or other necessary information; (2) identify all the specific deliverables that will be required under the Contract including detailed performance measurements such as quantity, quality, and time schedules for performance; (3) Specify any additional terms and conditions (not in conflict with the terms and conditions of this Contract) including but not limited to: whether or not the Contractor will be required to submit fiscal and programmatic reports (state grants); the detail and format invoices and supporting documentation (section 9); additional requirements for security of confidential information such as fire, smoke and water damage protection, alarm systems, locked files, guards or other devices reasonably expected to prevent loss or unauthorized removal of manually held data, passwords, access logs, badges or other methods reasonably expected to prevent loss or unauthorized access to electronically or mechanically held data, limited access to terminals or to input documents and design provisions to limit the use of personal data (section 10.); the names and addresses of representatives of each party to receive notice (section 20); additional insurance requirements to be provided by the Contractor (fire and water damage, personal liability, casualty, auto, property damage, professional liability (section 21.)). (4) Contracts with maximum obligations of \$50,000 dollars are more are required to file a copy of their Affirmative Action Plan with the Department (5) This Contract should be reviewed carefully by appropriate legal staff of both parties prior to the formal execution (Attachments A and B may be combined into one attachment, invoice or estimate, or a copy of the response to the Request for Proposals/Qualification (RFP/RFQ) or Grant Application may be attached in lieu of Attachments A & B if each specifically outlines the requirements for the "SCOPE OF SERVICE AND ADDITIONAL TERMS AND CONDITIONS" and the "BUDGET AND APPROVED EXPENDITURES" including all applicable rates and costs, except that the invoice, estimate, RFP, RFQ, or Grant Application's maximum obligation may not exceed the maximum obligation set forth in the Contract) Attach additional pages as necessary

ATTACHMENT A1

AGREEMENT #9305

ADDITIONAL TERMS AND CONDITIONS

WHEREAS, the Department of Environmental Management, by and through its Division of Waterways (now called Office of Waterways and hereinafter called "Waterways") entered into Contract #3097-D, dated June 25, 1985, with the Boston Redevelopment Authority (hereinafter called "BRA") for a grant in the amount of \$200,000.00 under authority of Chapter 723 of the Acts of 1983, Appropriation Account Number 2120-7849, to be matched by \$200,000.00 in funds from BRA, for the purpose of design "to provide for continuous access to the Inner Harbor waterfront via a walkway - Harborwalk - along the water's edge"; and

WHEREAS, the aforesaid Contract #3097-D expired on September 25, 1992 before completion of said design, with \$145,680.07 of DEM funds and \$152,353.87 in BRA funds remaining unexpended, and BRA has requested that the aforesaid Contract be terminated and that the unexpended funds be used for the repairing and improving of its docking facilities at Pier 4, Charlestown Navy Yard (hereinafter called the "Project"), in accordance with a Scope of Work attached hereto as Attachment A2; and

WHEREAS, Waterways has determined that the Project is in the best interests of the Commonwealth, and that the implementation of the Project in accordance with the Scope of Work is most appropriately performed by the BRA on behalf of the people of the Commonwealth; and

WHEREAS, Paul L. Barrett, Director, is authorized to receive and expend funds for the purpose of this Agreement and to execute this Agreement on behalf of BRA;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

DRAFT

5. Final Audit. Upon full completion of the Project and submission of the Final Report, as defined above, the BRA shall submit to the Director of Waterways a final project audit report prepared by a certified public accountant acceptable to Waterways, or such other evidence of an audit of Project receipts and expenditures, properly performed in accordance with generally accepted guidelines, as may be acceptable to the Director of Waterways. The Final Audit Report must be submitted to the Director within ninety (90) days after completion of the Project, and shall include an audit of all expenditures made under the aforesaid Contract #3097-D.
6. BRA Matching Funds. The BRA agrees to make available funds for the Project in the amount of \$152,353.87 in accordance with the accounting of remaining funds transferred under Contract #3097-D, attached hereto as Attachment A3, in order to provide, at a minimum, a fifty percent (50%) match with DEM funds transferred under the aforesaid contract, less expenditures for work performed under said contract.
7. DEM Funds. The BRA shall use the remainder of funds previously transferred under Contract #3097-D, in the amount of \$145,680.07, to perform work on the Project in accordance with the Scope of Work (Attachment A2).
8. It is understood and agreed to by the Parties that the BRA's share of matching costs in the amount of \$152,353.87 will be obtained from the City of Boston's Public Facilities Department, Office of Capital Planning (OCP). Should, for any reason whatsoever, OCP fail to make these funds available to the BRA for the benefit of the Courageous Sailing Center, then this agreement shall be null and void, with no further obligation to either party.

